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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,246	10/15/2002	Ferenc T Fekete	3716/138	3208
757	7590	02/09/2005	EXAMINER	
BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			CEGIELNIK, URSZULA M	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,246

Applicant(s)

FEKETE ET AL.

Examiner

Urszula M Cegielnik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15-19 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by United Kingdom Publication No. GB.876054, hereinafter UK '054.

UK '054 discloses a magnetically guided traveling toy comprising a body (19); two motor (24) driven wheels (20) at a back end of the body; and a magnetically guided wheel assembly (22) at a front end of the body (19); the wheel assembly including a magnet/wheel holder (27) pivotably coupled to the body (19), the center of the wheel (22, the left and right portions of the wheel) is aligned along the pivot axis; a forward projecting arm (26), a magnet (28) disposed to the underside of the arm (26) at a distal end, and one wheel (22) in a non-offset vertical alignment with the pivot axis of the holder (27). The one wheel (a single wheel of magnetically guided wheel assembly 22) is indeed in a non-offset vertical alignment with the pivot axis of the holder (see Figure 6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 9, 11, 12, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yonezawa in view of Fosbenner et al.

Yonezawa discloses a magnetically guided toy vehicle (A) with a substrate (B) having a guide path (B1), the guide path shaped in a continuous closed loop (see the Figures), and the guide path formed of magnetically attractive material.

Yonezawa does not disclose printing the graphic with ferromagnetic ink over the substrate, the ferromagnetic ink comprising up to 60 weight percent iron powder, and the ferromagnetic ink comprising between about 50 and about 60 weight percent iron powder.

Fosbenner et al disclose magnetic substrates usable with toy magnetically actuated fluid display devices (col. 1, lines 5-6). The reference teaches printing ferromagnetic ink over a substrate and the graphic printed using silk screening techniques (col. 9, lines 36-39). The application of a protective layer over the substrate and graphic is also disclosed (col. 9, lines 61-64). An opaque layer is overlying a major side of a first layer (col. 1, lines 57-60); affixing the substrate to

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a rigid support (col. 4, lines 8-15); the substrate is paper (col. 4, lines 8-15); the opaque sheet is paper (col. 4, lines 8-15).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to print the graphic with ferromagnetic ink over the substrate as taught by Fosbenner et al., since such a modification serves as an alternate means of placing a magnetic attractive material on the substrate.

Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 9 above, and further in view of Eppley.

Yonezawa, as modified by Fosbenner et al., lacks the protective layer being a UV coating.

Eppley discloses a process of printing an image on a substrate. The substrate (a simulated eye member) is coated with a UV coating after coloring (col. 3, lines 20-24).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply a UV coating over a graphic image as taught by Eppley, since such a modification would prevent the graphic image from fading.

Claims 1, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yonezawa in view of Korschen et al.

Yonezawa discloses a magnetically guided toy vehicle (A) with a substrate (B) having a guide path (B1), the guide path shaped in a continuous closed loop

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(see the Figures), and the guide path formed of magnetically attractive material (ferromagnetic material).

Yonezawa does not disclose the ferromagnetic material being ink comprising up to about 60 weight percent iron powder; the ink comprising between about 50 and about 60 weight percent iron powder, and the iron powder comprising electrolytic iron.

Korschen et al. teach magnetic iron oxide (which is electrolytic) containing granules that comprise 50 to 73 weight percent iron (the range of which 50 to 60 weight percent falls in), and which may be used in toners and printing inks (col. 2, lines 11-14).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a ferromagnetic ink having 50 to about 60 weight percent iron as taught by Korschen et al., since Korschen et al. state at col. 1, line 65 and col. 2, line 4, that such a modification would permit good flow properties and good dispersability.

Allowable Subject Matter

Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 04 August 2004 have been fully considered but they are not persuasive.

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In response to Applicants' argument that Claim 1 is not obvious because the natural combination of Fosbenner and Yonezawa by one of ordinary skill in the art does not result in the applicants' claimed invention.

The examiner submits that the combination of Yonezawa and Fosbenner is indeed possible by one of ordinary skill in the art, because Yonezawa admits at col. 1, lines 20-21, that a guide path may be made of ferromagnetic material. The fact that both Yonezawa and Fosbenner disclose a guide path for a toy vehicle and the use of a ferromagnetic material, would indeed lead one to make the combination.

Regarding applicants' argument with respect to claim 13, that UK '054 discloses two wheels (22), each of which is offset to the alignment of the pivot axis (27) - one wheel is to the left and the other wheel is to the right. Applicants state that claim 13 required one wheel in non-offset vertical alignment.

The examiner submits that UK '054 teaches one wheel having a left and right portion (22) that is connected to a bracket (26) which is then connected to the vertical pin of the magnet/wheel holder (27). Thus, UK '054 teaches one wheel in a non-offset vertical alignment.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM - 2:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 571-272-4419.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for both regular and After Final communications.

Urszula M. Cegielnik
Assistant Examiner
Art Unit 3714



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